

Serial No. 10/689,462

Responsive to final Office Action dated September 6, 2006

REMARKS

1. Claims 1-13 and 34-40 are pending and stand rejected.

Reconsideration of this application is respectfully requested.

2. The paper filed on August 6, 2006 presented new claims 14-20. These newly presented claims were incorrectly numbered because, prior to their submission, the highest claim number in the application was 33 (claims 14-33 were restricted out from the application then subsequently canceled). Accordingly, claims 14-20 have been renumbered as claims 34-40.

3. Claims 1-4, 6-8, 14, 16, 17, 19, and 20 stand finally rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,563,167 to Chern '167.

The claims now require forming a substantially rectangular control gate. Support for this amendment can be found on page 10, paragraph [0034] of the specification.

Chern '167 does not expressly or inherently describe, teach or suggest forming a substantially rectangular control gate. In contrast, Chern '167 discloses forming an irregular shape control gate 54 with notches disposed in diagonally opposing upper and lower corners of the control gate 54. The notch in the lower corner of the control gate 54 conforms to the profile of the underlying oxide layer 42 and floating gate 14 portion. Hence, claims 1-4, 6-8, 14, 16, 17, 19, and 20 are clearly allowable over Chern '167.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

4. Claims 5, 9-13, 15, and 18 stands finally rejected under 35 U.S.C. 103(a) as being unpatentable over Chern '167 as applied to claims 1, 6, and 17, and further in view of U.S. Patent 6,800,525B2 to Ryu et al. (Ryu).

DM2V860865.1 N1085-00156

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The arguments set forth above respecting Chern '167 are incorporated herein by reference.

Ryu fails to cure the deficiencies of Chern, as Ryu does not teach or suggest forming a substantially rectangular control gate as required by claims 5, 9-13, 15, and 18. For at least this reason, claims 5, 9-13, 15, and 18 are allowable over Chern '167 in view of Ryu.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

5. Favorable reconsideration of this application is respectfully requested as it is believed that all outstanding issues have been addressed herein and, further, that claims 1-13 and 34-40 are in condition for allowance. Should there be any questions or matters whose resolution may be advanced by a telephone call, the examiner is cordially invited to contact applicants' undersigned attorney at his number listed below.

6. No fees are believed due as a result of this paper. The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16 and any patent application processing fees under 37 CFR 1.17, which may be due and owing with the filing of this paper, or credit any overpayment to Deposit Account No. 04-1679.

Respectfully submitted,



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Date: November 30, 2006

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DM20860865.1 N1085-00156